

Doing Business in Arkansas



Charlie Daniels
Secretary of State



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Secretary of State

Dear Business Owner:

I am pleased to introduce *Doing Business in Arkansas*, which provides information for our clients interested in filing a corporate or business organization in Arkansas.

The handbook explores issues including:

- Choosing an entity type
- Reserving and filing a corporate name
- Avoiding common problems with document filings
- Corporate fee schedule
- Domestic corporations
- Foreign corporations
- Trademarks and Service Marks

We also provide contact information for other agencies which might be of assistance in establishing or expanding your business.

If you need additional information or have questions, please contact the Arkansas Secretary of State Business and Commercial Services Division at 501-682-3409, 1-888-233-0325 or email business@sos.arkansas.gov.

Sincerely,

A handwritten signature in cursive script, reading "Charlie Daniels", is positioned below the "Sincerely," text.

Charlie Daniels
Arkansas Secretary of State

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Business Services Office

Persons desiring to organize a corporation in Arkansas must apply to the Arkansas Secretary of State for authority to conduct business or other activities as a corporation. Through the Business and Commercial Services Division, the Secretary of State approves various kinds of corporate transactions and issues certificates giving effect to these transactions. The terms “corporation” and “corporate” are here used in a general sense and encompass all business organizations regulated by the state of Arkansas, including LLC, LP, LLP and some associations and cooperatives.

The Business and Commercial Services Division is also the holder of the records of almost 140,000 active corporations organized in or authorized to conduct business in Arkansas. All records maintained in this office are subject to the Freedom Of Information Act (except for some franchise tax information). These files are public and may be inspected or copied upon request for a fee. (Fees are listed on the Filing Fee Schedule at www.sos.arkansas.gov.)

A. Hours and Telephone Numbers

The Business and Commercial Services Division is open from 8 a.m. to 5 p.m., Monday through Thursday, 8 a.m. to 4:30 p.m. on Friday and can be reached by phone at 888-233-0325 or 501-682-3409. Documents may be submitted for filing by bringing them directly to our office, and if approved, will be processed while you wait. Any document received after 4:30 p.m. will be available for pick-up the next business day. Documents may also be filed online at www.sos.arkansas.gov. These filings are updated within 24 hours and originals are returned by mail to the submitter. Documents may also be submitted by mail, and if approved, will normally be filed and returned within 24 to 48 hours after the Business and Commercial Services Division receives them. To avoid delays caused by return of defective documents, please see the Checklist for Document Filings, page 12.

B. Services of the Business and Commercial Services Division

1. Approval of Corporate Transactions – Arkansas code requires many corporate proceedings to be filed as public record in the Arkansas

Secretary of State's office. Most common among these transactions are the filing of Articles of Incorporation, Amendment, Merger, and Dissolution. Forms for the filing of these documents are available at no charge from the Business and Commercial Services Division or are available online at www.sos.arkansas.gov. Some filings may be made through our web service at a lower fee. Fee payments must be submitted when the documents are presented for filing. The principal corporate documents are discussed in detail in this guide, beginning on page 15. However, if you need additional assistance, the staff of the Business and Commercial Services Division is available to answer questions and provide help.

2. Dissemination of Information — As the official record keeper of corporate documents, the Business and Commercial Services Division can provide various kinds of information on all registered corporations.

The Business and Commercial Services Division receives more than 2,000 telephone calls per week, most of which are from persons either requesting information on entities or checking on the availability of corporate names. (See page 10 for a discussion of corporate names.) Information may also be acquired in person, by mail or by visiting our website.

The following information is available by telephone or online.

- Availability of Entity Name
- Availability of Foreign Name
- Availability of Fictitious Names
- Type of Entity and Status
- Registered agent for legal Service of Process and address
- State of Origin
- Authorized Stock
- Corporate Officers

3. Preparation of Certified Copies of Documents — Many legal proceedings and business transactions require the introduction or presentation of documents certified by the Secretary of State as true and accurate copies of the records in this office. Certified copies of the corporate records in the office of the Arkansas Secretary of State may be introduced into evidence in all courts within the state as prima facie evidence of the facts stated in the documents.

The Arkansas Secretary of State may certify any corporate documents on file with the Business and Commercial Services Division. In addition to certified copies of documents, this office also prepares Good Standing Certificates, Certificates of Existence, and Certificates of Due and Diligent Search.

- Certificates of Good Standing state that an entity has complied with all requirements regulated by the Arkansas Secretary of State Business and Commercial Services Division. Certificates of Good Standing can be purchased and downloaded online at www.sos.arkansas.gov.

- Certificates of Existence state that a corporation was incorporated or admitted to do business, whether it was in existence on a particular date, and whether it is currently in good standing with the Arkansas Secretary of State.

- Certificates of Due and Diligent Search certify that all available records of the Secretary of State's office have been searched and that a particular corporation does not appear in the records.

Because of the volume of certification requests, please submit your order as early as possible. If you must have the order by a particular date, inform the clerk of the date by which you must have your order completed and whether you wish to pick it up or have it mailed. Certification orders must be paid for in advance and are usually processed within 24 to 48 hours after payment is received by the Secretary of State's Office.

4. Legal Assistance — The Business and Commercial Services Division of the Arkansas Secretary of State is not engaged in the practice of law and cannot give legal advice or issue legal opinions. If you have specific questions regarding a legal opinion or legal advice please contact a private attorney or legal professional. Our staff attorney is available to assist with legal problems arising in connection with matters relating to this office. However, he may not render legal advice or counsel individuals about their legal rights. All complaints regarding corporate entities must be filed with the Arkansas Attorney General's office.

5. Forms — The Business and Commercial Services Division has forms available for the filing of most documents, as well as fee schedules and other materials designed to simplify or clarify transactions with this office. All forms are free of charge. These items may be obtained by contacting the Business and Commercial Services Division or by visiting the Arkansas Secretary of State's web site at www.sos.arkansas.gov.

6. Listings of existing corporations, including the names and addresses of the corporation and its registered agent, are available for purchase. Lists may be prepared by corporate type (domestic for profit, nonprofit, and foreign). The charges for these computer printouts, data files or other media types are calculated by the number of records on the total order and can be purchased through the Arkansas Secretary of State's website at www.sos.arkansas.gov under the Data Download Section.

Choosing an Entity Type

When starting a business there are several business forms or organizations from which to choose. A variety of organizational structures are available for transacting business in Arkansas. In deciding which form of business is appropriate for your venture, a lawyer, CPA, tax advisor or financial advisor can provide critical information. Choosing the proper business entity for your business is vital to the success of your project.

One of the primary considerations in selecting a business organization is protection of the owners of the business from liability. Other considerations include tax treatment by the federal and state governments, management structure, future ownership, and capitalization. Arkansas laws determine how particular entities should be set up and conduct their business. These laws are very specific and set out the legal responsibility of each business form. Taxing authorities and regulatory agencies also have laws that pertain to business.

There is much written about choosing and how to set up the proper form of business for your needs. Information can be found at libraries, small business development centers and on the Internet. Ultimately, however, legal counsel or a certified public accountant may be needed to help you make the decision. The most common business structures are described in the following pages.

Sole Proprietorship

A business with a single owner with no formal or separate form of business structure is known as a sole proprietorship. The owner has sole control and responsibility of the business. A sole proprietorship is easily formed, allows important decisions to be made quickly, and typically has fewer legal restrictions. In this situation the owner and the business are indistinguishable. The business has limited life and cannot be transferred to others. The sole proprietor's responsibilities include:

- Obtaining all capital
- Personal liability for all debts and claims against the business
- Claiming all profits and losses on the owner's personal income tax return

- Obtaining state and local business licenses and permits
- Recording the name of the business with your local circuit clerk

Partnership

A partnership is an association of two or more persons acting as co-owners of a business and can be created by an oral or written agreement between the parties involved. However, a written agreement is highly recommended. This agreement should set out the responsibilities and obligations of the partners as well as the percentage of ownership.

General Partnership

- Requires no official registration beyond that required for a sole proprietorship, but may file to be on record as a general partnership in the Secretary of State's Office.
- Does not protect the personal assets of the business partners from claims against the partnership.
- Is required to file informational returns with the Internal Revenue Service and Arkansas Income Tax Division.
- Shares its profits and losses among the partners according to their ownership percentage. Partners are then required to claim this income or loss on their personal income tax return.

Limited Partnership

Limited partnerships (LP's) are more intensely regulated than general partnerships. LP's consist of general partners and limited partners. The general partner(s) manage the business and have no liability protection. The limited partner(s) are usually investors that are not involved in the day-to-day running of the business and whose liability is limited to the extent of their investment.

Limited partnerships:

- Are treated like a partnership by the Internal Revenue Service.
- Were originally developed for real estate development ventures.
- Are created by filing a Certificate of Limited Partnership with the Secretary of State.

Limited Liability Partnership

A limited liability partnership (LLP) is much like a limited partnership. However, the LLP allows all the partners to take an active role in the management of the business while offering members some liability protection from actions of the other partners. LLP's are most often used by groups of professionals such as doctors, accountants or architects.

Limited Liability Partnerships

- Are treated like partnerships by the Internal Revenue Service.
- Do not provide liability protection against actions of individual partners.
- Are created by filing a qualification of limited liability partnership with the Secretary of State.
- Must file an annual report with the Arkansas Secretary of State.

Corporation

A corporation is a more complex form of business organization. The corporation is a legal entity and exists apart from its owners or shareholders. As a separate entity, the corporation has its own rights, privileges and liabilities apart from the shareholders, officers and board of directors. A corporation can buy and sell property, enter into contracts, sue and be sued. Elected officers and its board of directors manage the corporation.

A corporation:

- Is created by filing its Articles of Incorporation with the Arkansas Secretary of State.
- May be formed for profit or for nonprofit purposes.
- Is unaffected in its duration by death or transfer of shares by any of the owners.
- Requires more extensive record keeping.
- Pays taxes on its profits; profits are distributed to its owners via dividends and are taxable by state and federal taxing authorities.
- Must file an annual franchise tax report with the Arkansas Secretary of State.

S Corporation

The S Corporation is a corporation that chooses to be taxed under Subchapter S of the Internal Revenue Tax Code. Being an S Corporation is a tax matter only. S Corporations are "tax pass through" business entities, meaning their profits and losses are reported by its owners on their personal tax returns.

In addition, the S Corporation:

- Is a corporation in the view of the state and complies with state corporation laws.
- Must have only one class of stock.
- Must be made up of shareholders that are individuals, estates, or trusts, but not corporations.
- Can only have shareholders that are United States citizens or residents.
- Cannot be a member of an affiliated group of corporations.
- Is limited to 75 shareholders.
- Is created by filing its Articles of Incorporation with the Arkansas Secretary of State and then the Internal Revenue Service.
- Must file an annual franchise tax report with the Arkansas Secretary of State.

Limited Liability Company

The Limited Liability Company (LLC) combines many favorable characteristics of corporations and partnerships. The LLC provides limited liability to its members and offers them the same IRS tax treatment as partnerships.

A Limited Liability Company:

- Must file Articles of Organization with the Arkansas Secretary of State.
- Allows members to manage the company themselves or to elect managers.
- Allows members to engage in management without risk of losing their limited liability status.
- Is a relatively new form of business organization.
- Enjoys less regulation on record keeping.
- May be taxed by the Internal Revenue Service as a corporation or as a partnership, depending on its structure.
- Must file an annual franchise tax report with the Arkansas Secretary of State.

Nonprofit Corporation

Nonprofit corporations are created for public benefit, for mutual benefit for its members, or for religious purposes. Nonprofit corporation status does not guarantee that the organization will be granted tax-exempt status, nor does it ensure that the contributions to the organization are tax deductible. Becoming a nonprofit corporation is generally a prerequisite to applying for tax-exempt status under IRS Code, such as section 501(c)(3).

Non-profit corporations:

- May not have shareholders or pay dividends.
- May compensate members, officers, and trustees (in reasonable amounts) for services rendered.
- Must have specific provisions in its article of incorporation dealing with property distribution upon dissolution.
- Are created by filing Articles of Incorporation with the Arkansas Secretary of State.

Section 3

Corporate Names

A corporation organized or admitted to do business in Arkansas is granted the exclusive use of a corporate name at the time it is filed with the Arkansas Secretary of State.

A. Requirements

1. The name of every Arkansas Corporation must include the word "Corporation," "Incorporated," "Company," or an abbreviation of one of these words. The corporate ending may vary due to the section of Arkansas Code under which the entity chooses to file. (See Application for Filing Articles of Incorporation, available online at www.sos.arkansas.gov, or through our office.)

2. No domestic or foreign corporation may take or assume a corporate name identical to the name of any other Arkansas corporation, or of any other foreign corporation authorized to transact business in Arkansas. The name must be distinguishable from other names on record.

B. Name Availability

1. Distinguishable names — If a proposed name begins with the same word or phrase as an existing name, the Arkansas Secretary of State will look for additional wording, which in some way significantly distinguishes the proposed name, such as a description of business purpose or activity.

2. All requests for name availability searches are available by contacting a business services representative or by conducting a name search on the Secretary of State's web site www.sos.arkansas.gov. The name searches are strictly preliminary searches and do not guarantee the right of the filer until actual corporate papers are filed with the Secretary of State's Office. It is not advisable to buy stationery, stock certificates, literature or other items based upon a name availability search.

C. Reservation of Names

1. Corporate names may be reserved prior to incorporation for a period of 120 days when the Arkansas Secretary of State's office receives the correct filing fee and the proper name reservation forms. The forms are available by visiting the office, contacting a corporate representative, electronic filing, or downloading from the Secretary of State's Office web site, www.sos.arkansas.gov. Name reservations filed under the corporate act are non renewable. Name reservations filed under the LLC act have a one-time renewal period.

2. When a corporate name has been reserved, and the right to that name is transferred in writing during the 120-day period, it can only be reserved for the balance of time remaining on the original 120-day period. The fee for transfer of name reservation and the form can be found online at www.sos.arkansas.gov or can be obtained by contacting a Business and Commercial Services corporate representative.

Checklist for Document Filings

Help prevent some of the most common problems that delay the processing of documents filed with the Business and Commercial Services. Simply review the following checklist to ensure that your documents are complete and accurate.

A. All Documents

1. Check to see that every section of your document has been completed, including complete address (P.O. Box is not acceptable for Registered Agent). Incomplete documents cannot be approved and will be returned to the applicant for correction. If tax contact information is not completed, your annual franchise tax report (if applicable) may not reach you, causing your corporation to enter inactive or revoked status.

2. Check to see that you have submitted the correct fee and that your check is not more than 60 days old. Sign your check and make it payable to the Arkansas Secretary of State. (A filing fee schedule may be obtained by writing or calling our office, accessing our website, www.sos.arkansas.gov, or visiting the Business and Commercial Services Division of the Office of the Secretary of State.)

3. Check to see that all necessary parties have signed the documents.

4. File an original set of documents. Do not send copies.

5. Be certain you are filing the correct document. Check to see if the form is for a profit, nonprofit, foreign, or domestic corporation.

6. Reserve your corporate name by mail, Internet, or in person at the Business and Commercial Services Division. A filing fee will reserve your name (upon availability) for 120 days. No reservations can be placed by telephone. A check for the availability of a corporate name by telephone or Internet is only a preliminary search and does not guarantee the name is available. It is not advisable to buy stationery or other items based upon a name search.

B. Articles of Incorporation For-Profit and Nonprofit

1. Check all general points listed in *Part A*.
2. Check to see if you have provided a principal office address and a physical registered agent address in Arkansas. P.O. Boxes are not acceptable.
3. Nonprofit entities must list what will be done with their assets upon dissolution. The IRS requires specific wording in the articles of incorporation regarding the disposition of assets. Please verify with the IRS, before filing with the Arkansas Secretary of State, if you have questions and are applying for Federal Nonprofit status. The IRS website can be found at www.irs.gov.

C. Articles of Amendment

1. Check all general points listed in *Part A*.
2. Be certain to state clearly the text of each amendment and identify each article being amended.
3. Make sure franchise taxes are current.

D. Dissolution

1. Check all general points listed in *Part A*.
2. Make sure franchise taxes are current.
3. Fill out and pay Final Franchise Tax Report.
4. Fill out and return correct dissolution form and fee.
(*All tax exempt entities disregard items 2 and 3 above.*)

E. Foreign Corporation Application for Authority to Transact Business

1. Check all general points listed in *Part A*.
2. Be sure to complete Articles VI through IX. They require good faith estimates in dollar amounts.
3. A Certificate of Good Standing from the entity's domestic state must be filed with all Foreign Corporation Applications for Certificate of Authority to Transact Business in the state of Arkansas. This good standing must be dated within the past 30 days.

F. Foreign Certificates of Amendment

1. Check all general points listed in *Part A*.
2. Be certain to state clearly the text of each amendment and identify each article being amended.
3. Include a certified copy of the amendment, merger or consolidation officially filed in the corporation's domestic state, dated within 60 days.
4. Make sure franchise taxes are current.

G. Withdrawal

1. Check all general points listed in *Part A*.
2. Make sure franchise taxes are current.
3. Fill out and pay Final Franchise Tax Report.
4. Fill out and return the correct withdrawal form and fee.
(*All tax exempt entities disregard items 2 and 3 above.*)

H. Mergers

1. Check all general points listed in *Part A*.
2. The agreement or plan of merger must be submitted with the Articles of Merger. The agreement must detail:
 - a. The terms and conditions of the merger;
 - b. The manner of converting the shares of the non-surviving corporation(s) into shares or other securities of the surviving corporation; and
 - c. A statement of the amendments to the Articles of Incorporation of the surviving corporation necessary and/or desirable to effect the merger.
3. The effective date of the merger shall not be prior to, nor more than, 30 days after the date of the filing and approval of the Articles of Merger by the Secretary of State. If the effective date is not stated in the Articles of Merger, the effective date shall be the date of filing (and approval) of the Articles of Merger by the Secretary of State.
4. In a merger absorbing a domestic corporation into a foreign corporation, if the merger is filed in the foreign corporation's home state or country first, the surviving foreign corporation must file a certified copy of the Certificate of Merger from the foreign corporation's domestic state with the Arkansas Secretary of State within 30 days of the effective date of the merger. If the merger is filed in Arkansas first, the original signed documents merging the corporation must be filed with the Arkansas Secretary of State within 30 days of the effective date of the merger.
5. A surviving foreign corporation must seek admission to do business in Arkansas prior to or contemporaneously with the filing of the Articles of Merger. If the surviving foreign corporation does not intend to transact business in Arkansas, it must surrender to the Arkansas Secretary of State the Certificate of Admission and all amended Certificates of Admission of all non-surviving foreign corporations that were parties to the merger.
6. Make sure all franchise taxes are current.

Section 5

Corporation Filing Fees

All filing fee schedules may be obtained by writing, calling or visiting the Business and Commercial Services Division of the Arkansas Secretary of State or by visiting our website, www.sos.arkansas.gov.

The following forms are available by visiting the office, contacting a corporate representative, electronic filing, or downloading from the Arkansas Secretary of State's website, www.sos.arkansas.gov.

Section 6

Available Forms

A. Domestic Corporations Forms

- Articles of Incorporation (also includes LLC, LP, LLP, LLLP, GP)
- Certificate of Amendment
- Change of Registered Agent or Office
- Certificate of Dissolution
- Application for Reservation of Corporate Name
- Registration of Fictitious Name
- Articles of Incorporation for Non-Profit

B. Foreign Corporation Forms

- Statement of Corporation Seeking Authorization to do Business in Arkansas (also includes LLC, LP, LLP, LLLP, GP)
- Change of Registered Agent or Office
- Certificate of Withdrawal
- Registration of Fictitious Name
- Registration of Corporate Name
- Application for Non-Profit Corporation to do Business in Arkansas
- Certificates of Amended Certificate of Authority
- Application for Reservation of Name

Domestic Corporations

A. Articles of Incorporation

A corporation is formed under the Arkansas General Corporation Act by filing Articles of Incorporation with the Office of the Secretary of State. Before the Articles are prepared, a corporate name should be selected and reserved with the Business and Commercial Services Division office of the Secretary of State. (See pages 10 and 11 for discussion of corporate names and reservation of names.) The Office of the Secretary of State will review and approve these Articles and issue a Certificate of Incorporation, which marks the beginning of the corporate existence.

The filing must include one original of the Articles of Incorporation signed by all incorporators and containing the following information:

1. Name of the Corporation – Shall contain the word “Corporation,” “Incorporated,” or “Company,” or an abbreviation of one of these words, but not as the final word of the company name. Such final word(s) or abbreviation(s) are immediately preceded by “and” or any symbol for “and.” For example, the corporation could be “XYZ Company,” but “ABC & Company” must be formally named “ABC & Company, Inc.”
2. Purpose(s) for which the corporation is organized;
3. Number of shares, which the corporation shall have the authority to issue
 - a. Class (optional)
 - b. Series (if any)
 - c. Par value per share or statement that shares are without par value;
4. Physical address (P.O. Box not acceptable) of the initial registered office of the corporation and the name of its initial registered agent;
5. Name and address of each incorporator;
6. The articles of incorporation may also set forth other provisions not inconsistent with law regarding identity of directors, limitations of purpose, management and shareholder liability;

B. Certificate of Amendment

Subsequent to the issuance of the Certificate of Incorporation, the corporation may need or choose to amend its Articles of Incorporation. The Board

of Directors must adopt a resolution setting out the proposed amendment(s) and direct that they be submitted to a vote of the shareholders of the corporation. The shareholders of the corporation entitled to vote on amendments must then vote to adopt the proposed amendment(s). Articles of Amendment stating the proposed amendment(s) must be filed with the Secretary of State. If all or a substantial number of the articles are to be amended, Amended & Restated Articles of Incorporation may be filed which will supersede the original Articles of Incorporation.

An original of the Certificate of Amendment, must be filed with an officer's signature and the following information:

1. Name of corporation
2. Statements certifying the following information:
 - a. Article(s) which was amended, plus exact wording;
 - b. That at a special (or regular) meeting of the stockholders of said corporation, duly called and held at the office of the company (give city, state, and date), the amendment(s) to the Articles of Incorporation was offered and adopted;
 - c. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself;
 - d. If the amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required;
 - e. An amendment approved by shareholders must list:
 - i. The designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment, and number of votes of each voting group indisputably represented at the meeting; and
 - ii. Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group, plus a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group.

C. Change of Registered Office or Agent

Every Arkansas domestic or foreign admitted corporation is required to register with the Arkansas Secretary of State its current principal office address in Arkansas and the name and address of the person designated as registered agent for service of process. If the corporation does not have an office or facility in Arkansas, the registered agent's address can serve as the principal office address.

The location of the principal office, the designation of registered agent, or both, may be changed by filing with the Arkansas Secretary of State a certificate signed by the president or other officer and containing the following information:

- Name of corporation;
- Address of its present registered office;
- Physical address to which registered office is to be changed (no P.O. Boxes allowed);
- Name of present registered agent;
- Name of successor registered agent.

(The address of its registered office and the address of the business office of its registered agent as changed will be identical.)

D. Domestic Limited Partnership

A limited partnership is a partnership formed by two or more persons, has as members one or more general partners and one or more limited partners.

Two or more persons desiring to form a limited partnership shall sign and swear to a certificate, which shall state:

- Name of the limited partnership; (Must contain the words *limited partnership* without abbreviation.)
- Name and physical address of the agent for service;
- Name and business address of each general partner;
- Latest date upon which the limited partnership is to dissolve;
- Any other matters the general partners determine to include therein.

E. Dissolution

A corporation may terminate its corporate existence by undergoing voluntary dissolution. The Board of Directors must first approve a resolution proposing dissolution. That resolution must then be adopted by a vote of the shareholders of the corporation. Upon adoption of the resolution by the shareholders, the Board of Directors may then proceed to dissolve the corporation by filing the Certificate of Dissolution signed by the president or other officer of the corporation and containing the following information:

1. Name of the corporation;
2. Date the dissolution was authorized;
3. If dissolution was approved by shareholders:
 - a. The number of total possible votes on the proposal to dissolve;
 - b. Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval;
4. If the dissolution required approval by voting groups, the information in #3 above must be provided for each individual voting group entitled to participate.

F. Fictitious Name Registration

No corporation, foreign or domestic, shall conduct any business in Arkansas under a fictitious name unless it first files that name with the Arkansas Secretary of State. In case of a domestic corporation, a form supplied or approved by the Secretary of State must be filed with the County Clerk of the county in which the corporation's registered office is located (unless located in Pulaski County), giving the following information:

- Fictitious name under which the business is or will be conducted;
- Description of the character of the business;
- Corporate name of the applicant;
- The state of incorporation;
- Location of the registered office of the applicant corporation in Arkansas;
- Statement that if applicant is a foreign corporation, it is admitted to and authorized to do business in Arkansas;
- Correct filing fee.

G. Name Reservation

1. The exclusive right to the use of a corporate name may be reserved by any person or corporation, foreign or domestic, by filing with the Arkansas Secretary of State a written application to reserve a specified corporate name. If the Secretary of State finds that the name is distinguishable upon its records from any other name reserved or registered or the name of any domestic corporation or any foreign corporation admitted to this State, it may be reserved for the exclusive use of the applicant for a period of 120 days.
2. The applicant may transfer the right to the exclusive use of a specific corporate name to another person or corporation by filing a Transfer of Reservation of Name form in the Office of the Secretary of State.
3. A name reservation filed under the corporate code section may not be renewed nor shall the same name be reserved on any subsequent application filed by, or for the benefit of, the original applicant or any person, firm or corporation identified with such applicant, or any transferee of the original applicant.
4. A name reservation filed under the limited liability code section may be renewed one time by the original applicant by filing the appropriate form and fee.

H. Non-Profit Articles of Incorporation

Any association or persons choosing to be incorporated as a non-profit organization shall file under the Arkansas Non Profit Act by completing Non-Profit Articles of Incorporation with the Secretary of State. Before the Articles are prepared, a corporate name should be selected and verified with the Business and Commercial Services Division. (See page 10 and 11 for a discussion of corporate names and reservation of names.) The Office of Secretary of State will review and approve the Articles and issue a Certificate of Incorporation, which marks the beginning of the corporate existence.

The articles must include the following information:

1. Name of corporation;
2. Type of non-profit corporation: Public-Benefit, Mutual-Benefit or Religious Corporation;
3. List whether corporation will have members;

4. Statement of any provisions for the regulation of the internal affairs of corporation, and any provisions for distribution of assets on dissolution or final liquidation; (If filing for federal tax exempt status please check with the IRS for this statement at www.irs.gov.)
5. Physical address (P.O. Box not acceptable) of main office, principal place of business, and the name of the registered agent;
6. Name and address of each incorporator.

Section 8

Foreign Corporations

A. Certificate of Authority

Any foreign corporation proposing to do intrastate business in Arkansas, or permitted to continue to do intrastate business, shall file with the Arkansas Secretary of State the following information, signed by an officer of the entity:

1. Name of the corporation;
2. State, territory or foreign country under whose laws the corporation was incorporated;
3. Incorporation date in state of origin;
4. Period of duration;
5. Name and physical address (P.O. Box not acceptable) of the resident agent upon whom service of process is authorized in Arkansas;
6. Address of the general office or principal place of business in the jurisdiction under whose laws the corporation was incorporated;
7. Number and par value, if any, of shares of the corporation's capital stock owned or to be owned by residents of this state;
8. Certificate of Good Standing dated within a 30-day time frame from the state of origin;
9. Correct filing fee.

B. Change of Registered Agent or Office

See Section 7, Item C, page 18.

C. Foreign Limited Partnership

Before transacting business in Arkansas, a foreign limited partnership shall register with the Arkansas Secretary of State. In order to register, a foreign limited partnership shall file with the Secretary of State a copy of its certificate of limited partnership and all amendments thereto, duly authenticated and certified by the proper authority.

A foreign limited partnership must submit to the Arkansas Secretary of State an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

1. Name of the limited partnership;
2. State in which it was organized;
3. Date of formation;
4. Name and physical address of the agent for service of process in Arkansas;
5. Address of principal office in the state of organization;
6. Name and address of each general partner;
7. Address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is cancelled or withdrawn;
8. Copy of the Certificate of Limited Partnership (or equivalent document) and all amendments thereto. (Must be certified by the Secretary of State of the state of origin, dated within 60 days.)

D. Certificate of Withdrawal

When a foreign corporation wishes to discontinue doing business in the state, an officer must execute a Certificate of Withdrawal with the Business and Commercial Services Division.

The Certificate of Withdrawal shall set forth the following information:

1. Name of the foreign corporation;
2. State of Origin;
3. Contact name and mailing address for the withdrawing corporation.

E. Registration of Fictitious Name

See Section 7, Item F, page 19

F. Reservation of Corporate Name

See Section 7, Item G, page 20

G. Registration of Corporate Name

Any foreign corporation not authorized to transact business in Arkansas may register its corporate name, provided its name is distinguishable upon the records of the Secretary of State from the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered by another corporation.

Registration of a corporate name shall be made by executing the application for registration. Such registration will contain the following:

1. Name of the corporation;
2. Jurisdiction under whose laws the corporation was incorporated;
3. Date of incorporation;
4. State of origin;
5. Description of business in which entity is engaged;
6. Certificate of Good Standing under the laws of the state or territory in which the corporation is originally incorporated; (Must be dated within a 30-day time frame)
7. Registration fee.
8. Name registrations are renewable yearly between October 1 and December 31 by filing a renewal fee and form. (If a registration lapses, the corporation must complete name registration forms and obtain another registration for the initial fee instead of the renewal fee).

H. Foreign Non-Profit Corporation

Prior to conducting business in Arkansas, a foreign corporation shall first procure a Certificate of Authority from the Secretary of State. Application for such certificate of authority shall contain the following:

1. Name of the corporation;
2. State, territory, or foreign country under whose laws the corporation was incorporated;
3. Date of incorporation;
4. Period of duration;
5. Address of its principal office or place of business in the location of original incorporation;
6. Name and address of its proposed registered agent for service of process in Arkansas;
7. Names and business address of the corporation's current directors and officers;
8. List if corporation has members;
9. Which entity type the non-profit would be classified as if filed as an Arkansas domestic:
 - a. Public-Benefit Corporation
 - b. Mutual-Benefit Corporation
 - c. Religious Corporation

Trademarks and Service Marks

Trademarks and Service Marks

Individuals and entities, both foreign and domestic, may choose to register their trademarks or service marks with the state of Arkansas. A trademark is recognized as a symbol of the business and its product, and is denoted by “TM” as a superscript or subscript beside the mark. Only a trademark registered with the federal government may use the ® mark.

A service mark, denoted by “SM,” symbolizes the services an entity offers. For example, the Nike logo appears on products and is a trademark, while a bank provides a service and its logo is a service mark. A mark must be in use before being registered with the Arkansas Secretary of State.

A foreign entity may choose to register its trademark or service mark in the state of Arkansas even if that entity is not registered to conduct business in Arkansas.

To register a trademark or service mark with the Arkansas Secretary of State, the applicant must send a completed form and appropriate fee. Applications are available online at www.sos.arkansas.gov. The application form must reflect the date the mark was first used anywhere, and the date it was first used in Arkansas. The application packet must also include three specimens of the mark in use. These may include business cards and stationery, literature, apparel, etc. Photographs are not acceptable unless they depict the mark used in signage. The “TM” and “SM” marks are not required to be printed on the specimens.

Renewing and Transferring Trade or Service Marks

A trademark or service mark is registered for five years. It may be renewed by repeating the application process.

A trademark or service mark may be transferred to another entity upon submission to the Arkansas Secretary of State of the appropriate fees and notarized Assignment of Registration form, signed by a representative of the original mark holder (“assignor”) and a representative of the prospective mark holder (“assignee”).

Glossary of Terms

Corporation: any company (Inc., Co., Incorporation, etc.) filed with the state of Arkansas.

Dissolution: document filed by in-state (domestic) companies that have ceased doing business in Arkansas. Entities not formally dissolved continue to accrue franchise tax.

Domestic: an entity originally established to conduct its business in the state of Arkansas

Entity: refers to any and all businesses filed with Arkansas, regardless of type.

Foreign: an entity originally established in a state other than Arkansas, or in another country

Non-profit: a corporation that exists for religious, mutual or public ben-

efit. Funds derived from its operation cannot be distributed to members as profits. Its tax status is determined by the Internal Revenue Service.

For Profit: a corporation that exists to make a profit for its owners or shareholders. The tax status of the corporation is determined by the Internal Revenue Service.

Registered agent: receives service of process for a corporation; all corporations are required to have a registered agent.

Withdrawal: document filed by out-of-state (foreign) companies that have ceased doing business in Arkansas. Entities not formally withdrawn continue to accrue franchise tax.

Notice

The information contained in this guide is for informational purposes only and should not be used as legal advice. If you require legal advice, please contact a private attorney or CPA. You may address all general questions through the Business and Commercial Services Division at 501-682-3409 or 1-888-233-0325. You may also find information on the Arkansas Secretary of State's website, www.sos.arkansas.gov.

Contact information

You may find the contact information below helpful in obtaining additional information about small businesses, tax code, trademarks and other business questions.

*Arkansas Small Business
Development Center*

University of Arkansas at Little Rock
2801 S. University
Little Rock, Arkansas 72204
Phone: 501-324-9043
Fax: 501-683-7720
<http://www.asbdc.ualr.edu>

*Arkansas Economic Development
Commission*

501-682-1121
Fax: 501-682-7341

Arkansas Insurance Department
501-371-2600
Fax: 501-471-2749

*Small Business Administration
Arkansas District Office*
2120 Riverfront Drive, Suite 250
Little Rock, AR 72202-1796
Telephone: 501-324-7379
Facsimile: 501-324-7394
www.sba.gov/ar

*Arkansas Manufactured Home
Commission*
501-324-9032
Fax: 501-683-3538

Arkansas Oil and Gas Commission
North division: 479-646-6611
Fax: 479-649-7656
South division: 870-862-4965
Fax: 870-862-8823

*Arkansas Employment Security
Division*
<http://www.arkansas.gov/esd>

Arkansas Securities Department
501-324-9260
Fax: 501-324-9268

*Department of Finance and
Administration*
<http://www.arkansas.gov/dfa>

Arkansas State Bank Department
501-324-9019
Fax: 501-324-9028

*Arkansas Home Inspector
Registration Board*
<http://www.ahib.org>

*Arkansas State Board of
Professional Engineers
and Land Surveyors*
501-682-2824
Fax: 501-682-2827

Alcoholic Beverage Control
501-682-1105
Fax: 501-682-2221

*Arkansas State Board of Public
Accountancy*
501-682-1520
Fax: 501-682-5538

Monday- Friday 8:30 a.m.-4:30
p.m. (Closed for lunch 11:30 a.m.-
12:30 p.m.)
870-802-0219

Contractors Licensing Board
501-372-4661
501-372-2247

Little Rock
700 W. Capitol
Little Rock, AR 72201
Monday-Friday 8:30 a.m.-4:30 p.m.
501-324-5111
www.irs.gov

Internal Revenue Service
Fayetteville
35 E. Mountain
Fayetteville, AR 72701
Monday-Friday 8:30 a.m.-4:30 p.m.
479-442-3948

United States Patent Office
Call the Trademark Assistance
Center at 1-800-786-9199 for help
on trademark matters.
[http://www.uspto.gov/main/trade-
marks.htm](http://www.uspto.gov/main/trade-marks.htm)

Ft. Smith
4905 Old Greenwood Rd.
Ft. Smith, AR 72903
Monday-Friday 8:30 a.m.-4:30 p.m.
479-649-8602

For general information regarding
other taxes that may apply to your
corporation, you may wish to con-
tact the *Department of Finance and
Administration, Revenue Division*,
at 501-682-4775.

Jonesboro
615 S. Main St.
Jonesboro, AR 72401

Notes



Charlie Daniels

Secretary of State

State Capitol, Room 256
Little Rock, Arkansas 72201-1094
501-682-1010
www.sos.arkansas.gov

Division of Business and Commercial Services

Victory Building, Suite 250
1401 West Capitol Avenue
Little Rock, Arkansas 72201
501-682-3409

E-mail: business@sos.arkansas.gov